

§ 15.102

property we may initiate the process to collect the necessary documentation.

§ 15.102 Who may notify the agency of a death?

Anyone may notify us of a death.

§ 15.103 How do I begin the probate process?

As soon as possible, contact any of the following offices to inform us of the decedent's death:

- (a) The agency or BIA regional office nearest to where the decedent was enrolled;
- (b) Any agency or BIA regional office; or
- (c) The Trust Beneficiary Call Center in OST.

§ 15.104 Does the agency need a death certificate to prepare a probate file?

(a) Yes. You must provide us with a certified copy of the death certificate if a death certificate exists. If necessary, we will make a copy from your certified copy for our use and return your copy.

(b) If a death certificate does not exist, you must provide an affidavit containing as much information as you have concerning the deceased, such as:

- (1) The State, city, reservation, location, date, and cause of death;
- (2) The last known address of the deceased;
- (3) Names and addresses of others who may have information about the deceased; and
- (4) Any other information available concerning the deceased, such as newspaper articles, an obituary, death notices, or a church or court record.

§ 15.105 What other documents does the agency need to prepare a probate file?

In addition to the certified copy of a death certificate or other reliable evidence of death listed in § 15.104, we need the following information and documents:

- (a) Originals or copies of all wills, codicils, and revocations, or other evidence that a will may exist;
- (b) The Social Security number of the decedent;
- (c) The place of enrollment and the tribal enrollment or census number of

25 CFR Ch. I (4–1–13 Edition)

the decedent and potential heirs or devisees;

(d) Current names and addresses of the decedent's potential heirs and devisees;

(e) Any sworn statements regarding the decedent's family, including any statements of paternity or maternity;

(f) Any statements renouncing an interest in the estate including identification of the person or entity in whose favor the interest is renounced, if any;

(g) A list of claims by known creditors of the decedent and their addresses, including copies of any court judgments; and

(h) Documents from the appropriate authorities, certified if possible, concerning the public record of the decedent, including but not limited to, any:

- (1) Marriage licenses and certificates of the decedent;
- (2) Divorce decrees of the decedent;
- (3) Adoption and guardianship records concerning the decedent or the decedent's potential heirs or devisees;
- (4) Use of other names by the decedent, including copies of name changes by court order; and
- (5) Orders requiring payment of child support or spousal support.

§ 15.106 May a probate case be initiated when an owner of an interest has been absent?

(a) A probate case may be initiated when either:

(1) Information is provided to us that an owner of an interest in trust or restricted land or trust personalty has been absent without explanation for a period of at least 6 years; or

(2) We become aware of other facts or circumstances from which an inference may be drawn that the person has died.

(b) When we receive information as described in § 15.106(a), we may begin an investigation into the circumstances, and may attempt to locate the person. We may:

- (1) Search available electronic databases;
- (2) Inquire into other published information sources such as telephone directories and other available directories;
- (3) Examine BIA land title and lease records;

Bureau of Indian Affairs, Interior

§ 15.202

(4) Examine the IIM account ledger for disbursements from the account; and

(5) Engage the services of an independent firm to conduct a search for the owner.

(c) When we have completed our investigation, if we are unable to locate the person, we may initiate a probate case and prepare a file that may include all the documentation developed in the search.

(d) We may file a claim in the probate case to recover the reasonable costs expended to contract with an independent firm to conduct the search.

§ 15.107 Who prepares a probate file?

The agency that serves the tribe where the decedent was an enrolled member will prepare the probate file in consultation with the potential heirs or devisees who can be located, and with other people who have information about the decedent or the estate.

§ 15.108 If the decedent was not an enrolled member of a tribe or was a member of more than one tribe, who prepares the probate file?

Unless otherwise provided by Federal law, the agency that has jurisdiction over the tribe with the strongest association with the decedent will serve as the home agency and will prepare the probate file if the decedent owned interests in trust or restricted land or trust personalty and either:

(a) Was not an enrolled member of a tribe; or

(b) Was a member of more than one tribe.

Subpart C—Preparing the Probate File

§ 15.201 What will the agency do with the documents that I provide?

After we receive notice of the death of a person owning trust or restricted land or trust personalty, we will examine the documents provided under §§ 15.104 and 15.105, and other documents and information provided to us to prepare a complete probate file. We may consult with you and other individuals or entities to obtain additional information to complete the probate

file. Then we will transfer the probate file to OHA.

§ 15.202 What items must the agency include in the probate file?

We will include the items listed in this section in the probate file.

(a) The evidence of death of the decedent as provided under § 15.104.

(b) A completed “Data for Heirship Findings and Family History Form” or successor form, certified by BIA, with the enrollment or other identifying number shown for each potential heir or devisee.

(c) Information provided by potential heirs, devisees, or the tribes on:

(1) Whether the heirs and devisees meet the definition of “Indian” for probate purposes, including enrollment or eligibility for enrollment in a tribe; or

(2) Whether the potential heirs or devisees are within two degrees of consanguinity of an “Indian.”

(d) If an individual qualifies as an Indian only because of ownership of a trust or restricted interest in land, the date on which the individual became the owner of the trust or restricted interest.

(e) A certified inventory of trust or restricted land, including:

(1) Accurate and adequate descriptions of all land; and

(2) Identification of any interests that represent less than 5 percent of the undivided interests in a parcel.

(f) A statement showing the balance and the source of funds in the decedent’s IIM account on the date of death.

(g) A statement showing all receipts and sources of income to and disbursements, if any, from the decedent’s IIM account after the date of death.

(h) Originals or copies of all wills, codicils, and revocations that have been provided to us.

(i) A copy of any statement or document concerning any wills, codicils, or revocations the BIA returned to the testator.

(j) Any statement renouncing an interest in the estate that has been submitted to us, and the information necessary to identify any person receiving a renounced interest.

(k) Claims of creditors that have been submitted to us under § 15.302